P.R. No. 1632/06
Presented by Shri S.K. Gupta
dated 14/06/06

Single Bench

BEFORE THE HON'BLE HIGH COURT OF CHHATTISGARH AT BILASPUR

Second Appeal No. 257 Of 2006.

APPELLANTS :- 1. Daliram, aged 48 years, son of Vishram,

DEFENDANTS 2. Baliram, aged 50 years, son of Vishram,

Both resident of Village Salkhan, Tahsil Janjgir, District Janjgir - Champa (Chhattisgarh),

V E R S U S

RESPONDENTS :- 1. Radheshyam, son of Khobhi Ram, aged 58 years, resident of Village Salkhan, District Janjgir – Champa (Chhattisgarh),

PLAINTIFF

2. State of Chhattisgarh, Through Collector Janjgir – Champa.

DEFENDANT NO. 3

APPEAL UNDER SECTION 100 OF CODE OF CIVIL PROCEDURE

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

(16)

मामला क्रमांक S.A.No.257 ..... **सन् 2006**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	30.11.2006 Appellants by Shri H.B.Agrawal, learned Sr. Advocate with Ms. Sangeeta Mishra, Advocate. Heard on admission. The defendants/appellants have preferred this Second Appeal, being aggrieved by the judgment and decree dated 12.05.2006 passed in Civil Appeal No. 67-A of 2005 by Shri S.R.Banjare, Additional District Judge, Janjgir, Civil District Bilaspur whereby the First Appeal preferred by the defendants/appellants against the judgment and decree dated 30th March 2005 in Civil Suit No. 2-A of 1997 was dismissed. Plaintiff/respondent No.1-Radheshyam had filed a Suit for specific performance of contract alleging that the defendant No. 1/ appellant-Daliram had entered into a contract vide Ex.P.1 dated 17.06.1996 to sell land Kh. No. 3442, area 1.16 acres to him. The trial Court held that the defendant No.1-Daliram had agreed to sell the aforesaid land to the plaintiff and passed a decree for specific performance of contract against the defendant No.1/appellant herein. The above finding of fact was affirmed in First Appeal.	

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(37)

मामला क्रमांक S.A. No. 257 ..... सन् 2006

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	Shri H. B. Agrawal, learned Sr. Counsel appearing on behalf of the appellants contended that the defendant No.1/appellant had pleaded before the lower Court that the document Ex P-1 dated 17.06.1996 did not bear his signature. It was also contended that both the Courts below have erred in not placing reliance on the report of the hand-writing expert that the document Ex.P.1 did not bear the signature of the defendant No.1-Daliram and not ensuring that the admitted signatures of Daliram were taken by the hand-writing expert in Court before sending the opinion. No other point was urged by the learned counsel for the appellants. Upon a careful perusal of the judgment and decree passed by both the Courts below, it is crystal clear that Ulhas S. Aathle D.W.No.3 is not a qualified handwriting expert since he did not obtain any training or degree from any recognized institution. He also admitted that he did not get the admitted signatures of Daliram taken in his presence, in Court. He also admitted that he could not say whether the standard signatures S-1 to S-7 examined by him pertain to Daliram or not because they were not taken in his presence. As against this, Heralal DW/2 also admitted that Daliram had affixed his signatures on the document written by Kanhaiya. Daliram, DW/1 also admitted that Kanhaiya was the scribe of the document. Plaintiff Radheshyam has proved the execution of document Ex. P-1 by Daliram by examining himself and	

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आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश — 3 —	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	Bodhram PW/1, the attesting witness. In this view of the matter, both the Courts below were wholly justified in not placing any reliance on the report Ex.P.1 and the testimony of hand-writing expert Ulhas S. Aathle D.W.3. In this view of the matter, I am of the considered opinion that no substantial question of law is involved in this Second Appeal. Consequently, this Second Appeal is dismissed at the stage of admission. M.C.P.No.962 of 2006 for grant of stay and I.A.No.3215 of 2006 for out of turn hearing the case also stand disposed of. No order as to costs. **Sd/-** **Dilip Raosaheb Deshmukh** **Judge**	